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10 **MICHAEL HOUGHTON**

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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 **RENE HADLOCK,**
15
16 Plaintiffs,
17
18 vs.

19 **PERFORMANT RECOVERY, INC.;**
20 **and DOES 1 through 10, inclusive,**
21 **Defendants.**

Case No.:

**COMPLAINT AND DEMAND FOR
JURY**

22 **COMPLAINT**

23 ***I. INTRODUCTION***

24 1. This is an action for actual and statutory damages brought by Plaintiff,
25 Rene Hadlock, an individual consumer, against Defendant, Performant Recovery,
Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et

1 seq. (hereinafter “FDCPA”), which prohibits debt collectors from engaging in
2 abusive, deceptive, and unfair practices.

3 ***II. JURISDICTION***

4 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C.
5 § 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.
6

7 Venue in this District is proper in that the Defendant transacts business here.

8 ***III. PARTIES***

9 3. Plaintiff, Rene Hadlock, is a natural person with a permanent residence in
10 Sparks, Washoe County, Nevada 89441.
11

12 4. Upon information and belief, the Defendant, Performant Recovery, Inc., is
13 a corporation engaged in the business of collecting debts in this state and in several
14 other states, with its principal place of business located at 333 North Canyons
15 Parkway, Suite 100, Livermore, Alameda County, California 94551. The principal
16 purpose of Defendant is the collection of debts in this state and several other states,
17 and Defendant regularly attempts to collect debts alleged to be due to another.
18

19 5. Defendant is engaged in the collection of debts from consumers using the
20 mail and telephone. Defendant is a “debt collector” as defined by the FDCPA, 15
21 U.S.C. § 1692a(6).
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IV. FACTUAL ALLEGATIONS

6. The debt that Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services, which are the subjects of the transaction, are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

7. Within one (1) year preceding the date of this Complaint, Defendant, in connection with the collection of the alleged debt, attempted to communicate with Plaintiff at their place of employment after being informed that this inconvenienced Plaintiff and/or was conduct prohibited by Plaintiff's employer.

8. Within one (1) year preceding the date of this Complaint, Defendant, in connection with the collection of the alleged debt, contacted Plaintiff and threatened to take legal action against Plaintiff

9. Defendant has no standing to commence legal proceedings on behalf of the creditor.

10. Defendant is a debt collection company and as a debt collection company attempting to collect on an alleged debt, Defendant can only refer the matter back to the creditor with a recommendation that the original creditor attempt legal proceedings.

1 11. The representations made to Plaintiff by Defendant regarding legal
2 proceedings were false.

3 12. The natural consequences of Defendant's statements and actions were to
4 unjustly condemn and vilify Plaintiff for his non-payment of the debt he allegedly
5 owed.
6

7 13. The natural consequences of Defendant's statements and actions were to
8 produce an unpleasant and/or hostile situation between Defendant and Plaintiff.
9

10 14. The natural consequences of Defendant's statements and actions were to
11 cause Plaintiff mental distress.

12 15. Defendant utilized unfair and unconscionable means to collect on
13 Plaintiff's alleged debt, by lying to and misleading Plaintiff.
14

15 **V. CLAIM FOR RELIEF**

16 16. Plaintiff repeats and realleges and incorporates by reference to the
17 foregoing paragraphs.

18 17. Defendants violated the FDCPA. Defendants' violations include, but are
19 not limited to, the following:
20

21 (a) Defendant violated §1692c(a)(1) of the FDCPA by communicating
22 at a time or place known or which should be known to be
23 inconvenient to the Plaintiff; and
24
25

1 (b) Defendant violated §1692c(a)(3) of the FDCPA by communicating
2 with the Plaintiff at the Plaintiff's place of employment when the
3 Defendant knew or had reason to know that the Plaintiff's
4 employer prohibits the Plaintiff from receiving such
5 communication; and
6

7 (c) Defendant violated §1692d of the FDCPA by engaging in conduct
8 that lead to the natural consequences of which is to harass, oppress,
9 or abuse any person in connection with the collection of an alleged
10 debt; and
11

12 (d) Defendant violated §1692d(3) of the FDCPA by publishing the
13 name of the Plaintiff on a list of consumers who allegedly refuse to
14 pay debts and it was not to a consumer reporting agency or persons
15 meeting the requirements of section 603(f) or 604(a)(3) of this Act;
16 and
17

18 (e) Defendant violated §1692e of the FDCPA by using a false,
19 deceptive, or misleading representation or means in connection
20 with the collection of the alleged debt; and
21

22 (f) Defendant violated §1692e(5) of the FDCPA by threatening to take
23 action that the Defendant does not intend to take and/or the
24 Defendant cannot legally take; and
25

1 (g) Defendant violated §1692e(10) of the FDCPA by using false
2 representation or deceptive means in connection with the collection
3 of the alleged debt; and

4 (h) Defendant violated §1692f of the FDCPA by using unfair or
5 unconscionable means in connection with the collection of an
6 alleged debt.
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8
9 18. Defendant's acts as described above were done intentionally with the
10 purpose of coercing Plaintiff to pay the alleged debt.

11 19. As a result of the foregoing violations of the FDCPA, Defendant is liable
12 to the Plaintiff, Michael Houghton, for declaratory judgment that Defendant's
13 conduct violated the FDCPA, for actual damages, statutory damages, costs, and
14 attorney fees.
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19 **WHEREFORE**, Plaintiff respectfully requests that judgment be entered
20 against Defendant, Performant Recovery, Inc., for the following:

21 A. Declaratory judgment that Defendant's conduct violated the FDCPA.

22 B. Actual damages.

23 C. Statutory damages pursuant to 15 U.S.C. § 1692k.

24 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k.
25

1 E. Awarding Plaintiff any pre-judgment and post-judgment interest as may
2 be allowed under the law.

3 F. For such other and further relief as the Court may deem just and proper.
4

5 **DEMAND FOR JURY TRIAL**

6 Please take notice that Plaintiff, Rene Hadlock, demands trial by jury in this
7 action.

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9
10 DATED: September 6, 2013

RESPECTFULLY SUBMITTED,
PRICE LAW GROUP APC

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12 By: /s/ Janice E. Smith
13 Janice E. Smith
14 Attorney for Plaintiff
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